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AN ACT

RELATING TO PUBLIC SCHOOL CAPITAL OUTLAY; AUTHORIZING  
SUPPLEMENTAL SEVERANCE TAX BONDS FOR PUBLIC SCHOOL CAPITAL  
OUTLAY PROJECTS; AMENDING THE PUBLIC SCHOOL CAPITAL  
IMPROVEMENTS ACT TO ESTABLISH FUNDING PRIORITIES, EXPAND THE  
PURPOSE FOR WHICH FUNDS MAY BE USED AND ADJUST STATE  
DISTRIBUTIONS BY AN INFLATION FACTOR; AMENDING THE PUBLIC  
SCHOOL CAPITAL OUTLAY ACT TO CHANGE CRITERIA FOR FUNDING  
CERTAIN PROJECTS, PROVIDE A PROCEDURE FOR APPEALING CERTAIN  
DECISIONS, PROVIDE A CAUSE OF ACTION AGAINST CERTAIN SCHOOL  
DISTRICTS FOR CERTAIN CONSTITUTIONAL VIOLATIONS AND PROVIDE  
FOR A TAX IMPOSITION AS A REMEDY; CREATING THE PUBLIC SCHOOL  
CAPITAL OUTLAY TASK FORCE; PROVIDING DUTIES FOR THE TASK  
FORCE; AMENDING THE TECHNOLOGY FOR EDUCATION ACT TO LIMIT  
CARRYFORWARD PROVISIONS; MAKING APPROPRIATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-27-12.2 NMSA 1978 (being Laws  
2001, Chapter 338, Section 2) is amended to read:

"7-27-12.2. SUPPLEMENTAL SEVERANCE TAX BONDS--PUBLIC  
SCHOOL CAPITAL OUTLAY PROJECTS.--

A. The public school capital outlay council is  
authorized to certify by resolution that proceeds of  
supplemental severance tax bonds are needed for expenditures  
relating to public school capital outlay projects pursuant to

1 the Public School Capital Outlay Act or for the state  
2 distribution for public school capital improvements pursuant  
3 to the Public School Capital Improvements Act. The  
4 resolution shall specify the total amount needed.

5 B. The state board of finance may issue and sell  
6 supplemental severance tax bonds in compliance with the  
7 Severance Tax Bonding Act when the public school capital  
8 outlay council certifies by resolution the need for the  
9 issuance of the bonds. The amount of the bonds sold at each  
10 sale shall not exceed the lesser of the amount certified by  
11 the council or the amount that may be issued pursuant to the  
12 restrictions of Section 7-27-14 NMSA 1978.

13 C. The state board of finance shall schedule the  
14 issuance and sale of the bonds in the most expeditious and  
15 economical manner possible.

16 D. The proceeds from the sale of the bonds are  
17 appropriated as follows:

18 (1) the amount certified by the secretary of  
19 public education as necessary to make the distribution  
20 pursuant to Section 22-25-9 NMSA 1978 is appropriated to the  
21 public school capital improvements fund for the purpose of  
22 carrying out the provisions of the Public School Capital  
23 Improvements Act; and

24 (2) the remainder of the proceeds is  
25 appropriated to the public school capital outlay fund for the

1 purpose of carrying out the provisions of the Public School  
2 Capital Outlay Act."

3 Section 2. Section 7-27-14 NMSA 1978 (being Laws 1961,  
4 Chapter 5, Section 11, as amended) is amended to read:

5 "7-27-14. AMOUNT OF TAX--SECURITY FOR BONDS.--

6 A. The legislature shall provide for the continued  
7 assessment, levy, collection and deposit into the severance  
8 tax bonding fund of the tax or taxes upon natural resource  
9 products severed and saved from the soil of the state that,  
10 together with such other income as may be deposited to the  
11 fund, will be sufficient to produce an amount that is at  
12 least the amount necessary to meet annual debt service  
13 charges on all outstanding severance tax bonds and  
14 supplemental severance tax bonds.

15 B. Except as otherwise specifically provided by  
16 law, the state board of finance shall issue no severance tax  
17 bonds unless the aggregate amount of severance tax bonds  
18 outstanding, and including the issue proposed, can be  
19 serviced with not more than fifty percent of the annual  
20 deposits into the severance tax bonding fund, as determined  
21 by the deposits during the preceding fiscal year.

22 C. The state board of finance shall issue no  
23 supplemental severance tax bonds with a term that extends  
24 beyond the fiscal year in which the bonds are issued unless  
25 the aggregate amount of severance tax bonds and supplemental

1 severance tax bonds outstanding, and including the issue  
2 proposed, can be serviced with not more than sixty-two and  
3 one-half percent of the annual deposits into the severance  
4 tax bonding fund, as determined by the deposits during the  
5 preceding fiscal year.

6 D. Except as otherwise specifically provided by  
7 law, the state board of finance may issue supplemental  
8 severance tax bonds with a term that does not extend beyond  
9 the fiscal year in which they are issued if the debt service  
10 on such supplemental severance tax bonds when added to the  
11 debt service previously paid or scheduled to be paid during  
12 that fiscal year on severance tax bonds and supplemental  
13 severance tax bonds does not exceed ninety-five percent of  
14 the deposits into the severance tax bonding fund during the  
15 preceding fiscal year.

16 E. The provisions of this section shall not be  
17 modified by the terms of any severance tax bonds or  
18 supplemental severance tax bonds hereafter issued."

19 Section 3. Section 7-37-7 NMSA 1978 (being Laws 1973,  
20 Chapter 258, Section 40, as amended) is amended to read:

21 "7-37-7. TAX RATES AUTHORIZED--LIMITATIONS.--

22 A. The tax rates specified in Subsection B of this  
23 section are the maximum rates that may be set by the  
24 department of finance and administration for the use of the  
25 stated governmental units for the purposes stated in that

1 subsection. The tax rates set for residential property for  
2 county, school district or municipal general purposes or for  
3 the purposes authorized in Paragraph (2) of Subsection C of  
4 this section shall be the same as the tax rates set for  
5 nonresidential property for those governmental units for  
6 those purposes unless different rates are required because of  
7 limitations imposed by Section 7-37-7.1 NMSA 1978. The  
8 department of finance and administration may set a rate at  
9 less than the maximum in any tax year. In addition to the  
10 rates authorized in Subsection B of this section, the  
11 department of finance and administration shall also determine  
12 and set the necessary rates authorized in Subsection C of  
13 this section. The tax rates authorized in Paragraphs (1),  
14 (3) and (4) of Subsection C of this section shall be set at  
15 the same rate for both residential and nonresidential  
16 property. Rates shall be set after the governmental units'  
17 budget-making and approval process is completed and shall be  
18 set in accordance with Section 7-38-33 NMSA 1978. Orders  
19 imposing the rates set for all units of government shall be  
20 made by the boards of county commissioners after rates are  
21 set and certified to the boards by the department of finance  
22 and administration. The department of finance and  
23 administration shall also certify the rates set for  
24 nonresidential property in governmental units to the  
25 department for use in collecting taxes imposed under the Oil

1 and Gas Ad Valorem Production Tax Act, the Oil and Gas  
2 Production Equipment Ad Valorem Tax Act and the Copper  
3 Production Ad Valorem Tax Act.

4 B. The following tax rates for the indicated  
5 purposes are authorized:

6 (1) for the use of each county for general  
7 purposes for the 1987 and subsequent property tax years, a  
8 rate of eleven dollars eighty-five cents (\$11.85) for each  
9 one thousand dollars (\$1,000) of net taxable value of both  
10 residential and nonresidential property allocated to the  
11 county;

12 (2) for the use of each school district for  
13 general operating purposes, a rate of fifty cents (\$.50) for  
14 each one thousand dollars (\$1,000) of net taxable value of  
15 both residential and nonresidential property allocated to the  
16 school district; and

17 (3) for the use of each municipality for  
18 general purposes for the 1987 and subsequent property tax  
19 years, a rate of seven dollars sixty-five cents (\$7.65) for  
20 each one thousand dollars (\$1,000) of net taxable value of  
21 both residential and nonresidential property allocated to the  
22 municipality.

23 C. In addition to the rates authorized in  
24 Subsection B of this section, there are also authorized:

25 (1) those rates or impositions authorized

1 under provisions of law outside of the Property Tax Code that  
2 are for the use of the governmental units indicated in those  
3 provisions and are for the stated purpose of paying principal  
4 and interest on a public general obligation debt incurred  
5 under those provisions of law;

6 (2) those rates or impositions authorized  
7 under provisions of law outside of the Property Tax Code that  
8 are for the use of the governmental units indicated in those  
9 provisions, are for the stated purposes authorized by those  
10 provisions and have been approved by the voters of the  
11 governmental unit in the manner required by law;

12 (3) those rates or impositions necessary for  
13 the use of a governmental unit to pay a tort or workers'  
14 compensation judgment for which a county, municipality or  
15 school district is liable, subject to the limitations in  
16 Subsection B of Section 41-4-25 NMSA 1978, but, except as  
17 provided in Paragraph (4) of this subsection, no rate or  
18 imposition shall be authorized to pay any judgment other than  
19 one arising from a tort or workers' compensation claim; and

20 (4) those rates or impositions ordered by a  
21 court pursuant to Section 22-24-5.5 NMSA 1978 and for the use  
22 of a school district to pay a judgment pursuant to that  
23 section.

24 D. The rates and impositions authorized under  
25 Subsection C of this section shall be on the net taxable

1 value of both residential and nonresidential property  
2 allocated to the unit of government specified in the  
3 provisions of the other laws or the judgments."

4 Section 4. Section 15-3B-2 NMSA 1978 (being Laws 1972,  
5 Chapter 74, Section 2, as amended) is amended to read:

6 "15-3B-2. DEFINITIONS.--As used in the Property Control  
7 Act:

8 A. "capital outlay project" means the acquisition,  
9 improvement, alteration or reconstruction of assets of a  
10 long-term character that are intended to continue to be held  
11 or used, including land, buildings, machinery, furniture and  
12 equipment. A "capital outlay project" includes all proposed  
13 expenditures related to the entire undertaking;

14 B. "department" means the general services  
15 department;

16 C. "director" means the director of the division;

17 D. "division" means the property control division  
18 of the department;

19 E. "jurisdiction" means all state buildings and  
20 land except those under the control and management of the  
21 state armory board, the office of cultural affairs, the state  
22 fair commission, the department of game and fish, the  
23 department of transportation, the commissioner of public  
24 lands, the state parks division of the energy, minerals and  
25 natural resources department, the state institutions of

1 higher learning, the New Mexico school for the deaf, the New  
2 Mexico school for the visually handicapped, the judicial  
3 branch, the legislative branch, property acquired by the  
4 economic development department pursuant to the Statewide  
5 Economic Development Finance Act and property acquired by the  
6 public school facilities authority pursuant to the Public  
7 School Capital Outlay Act; and

8 F. "secretary" means the secretary of general  
9 services."

10 Section 5. Section 22-15A-9 NMSA 1978 (being Laws 1994,  
11 Chapter 96, Section 9, as amended) is amended to read:

12 "22-15A-9. EDUCATIONAL TECHNOLOGY FUND--DISTRIBUTION.--

13 A. Upon annual review and approval of a school  
14 district's educational technology plan, the bureau shall  
15 determine a separate distribution from the educational  
16 technology fund for each school district.

17 B. On or before July 31 of each year, the bureau  
18 shall distribute money in the educational technology fund  
19 directly to each school district in an amount equal to ninety  
20 percent of the school district's estimated adjusted  
21 entitlement calculated pursuant to Subsection C of this  
22 section. A school district's unadjusted entitlement is that  
23 portion of the total amount of the annual appropriation that  
24 the projected membership bears to the projected membership of  
25 the state. Kindergarten membership shall be calculated on a

1 one-half full-time equivalent basis.

2 C. A school district's estimated adjusted  
3 entitlement shall be calculated by the bureau using the  
4 following procedure:

5 (1) a base allocation is calculated by  
6 multiplying the total annual appropriation by seventy-five  
7 thousandths percent;

8 (2) the estimated adjusted entitlement  
9 amount for a school district whose unadjusted entitlement is  
10 at or below the base allocation shall be equal to the base  
11 allocation. For a school district whose unadjusted  
12 entitlement is higher than the base allocation, the estimated  
13 adjusted entitlement shall be calculated pursuant to  
14 Paragraphs (3) through (13) of this subsection;

15 (3) the total projected membership in those  
16 school districts that will receive the base allocation  
17 pursuant to Paragraph (2) of this subsection is subtracted  
18 from the total projected state membership;

19 (4) the total of the estimated adjusted  
20 entitlement amounts that will be distributed to those school  
21 districts receiving the base allocation pursuant to Paragraph  
22 (2) of this subsection is subtracted from the total  
23 appropriation;

24 (5) the projected membership for the  
25 district is divided by the result calculated pursuant to

1 Paragraph (3) of this subsection;

2 (6) the number calculated pursuant to  
3 Paragraph (5) of this subsection is multiplied by the value  
4 calculated pursuant to Paragraph (4) of this subsection;

5 (7) excluding appropriations made prior to  
6 January 1, 2003 and reauthorizations of previous educational  
7 technology appropriations, the total of educational  
8 technology appropriations made in the immediately preceding  
9 three fiscal years directly to, and not rejected by, the  
10 school district, is calculated. No later than June 30 of  
11 each year, the department of finance and administration shall  
12 certify to the bureau the amount of direct appropriations  
13 made to each school district during the preceding twelve  
14 months. An appropriation made in a fiscal year shall be  
15 deemed to be accepted by a school district unless, prior to  
16 July 15 of the fiscal year following the appropriation, the  
17 district notifies the department of finance and  
18 administration and the public education department that the  
19 district is rejecting the appropriation;

20 (8) the applicable amount for the school  
21 district calculated from Subparagraph (k), (m), (n) or (o) of  
22 Paragraph (5) of Subsection B of Section 22-24-5 NMSA 1978 is  
23 subtracted from one;

24 (9) the value calculated pursuant to  
25 Paragraph (7) of this subsection for the school district is

1 multiplied by the amount calculated pursuant to Paragraph (8)  
2 of this subsection for that school district;

3 (10) the total amount of reductions for the  
4 school district made in the immediately two preceding fiscal  
5 years pursuant to Paragraph (11) of this subsection is  
6 subtracted from the amount calculated pursuant to Paragraph  
7 (9) of this subsection for that school district;

8 (11) the amount calculated for the school  
9 district pursuant to Paragraph (10) of this subsection is  
10 subtracted from the amount calculated pursuant to Paragraph  
11 (6) of this subsection for that school district;

12 (12) if the amount calculated for the school  
13 district pursuant to Paragraph (11) of this subsection is  
14 equal to or less than the base allocation amount, the  
15 estimated adjusted entitlement amount for that school  
16 district is equal to the base allocation amount; and

17 (13) if the amount calculated for the school  
18 district pursuant to Paragraph (11) of this subsection is  
19 more than the base allocation amount, the estimated adjusted  
20 entitlement amount for that school district is equal to the  
21 amount calculated pursuant to that paragraph.

22 D. On or before January 30 of each year, the  
23 bureau shall recompute each adjusted entitlement using the  
24 final funded membership for that year and, without making any  
25 additional reductions, shall allocate the balance of the

1 annual appropriation adjusting for any over- or  
2 under-projection of membership.

3 E. A school district receiving funding pursuant to  
4 the Technology for Education Act is responsible for the  
5 purchase, distribution, use and maintenance of educational  
6 technology.

7 F. As used in this section, "membership" means the  
8 total enrollment of qualified students, as defined in the  
9 Public School Finance Act, on the current roll of class or  
10 school on a specified day. The current roll is established  
11 by the addition of original entries and reentries minus  
12 withdrawals. Withdrawal of students, in addition to students  
13 formally withdrawn from the public school, includes students  
14 absent from the public school for as many as ten consecutive  
15 school days."

16 Section 6. Section 22-24-2 NMSA 1978 (being Laws 1975,  
17 Chapter 235, Section 2, as amended) is amended to read:

18 "22-24-2. PURPOSE OF ACT.--The purpose of the Public  
19 School Capital Outlay Act is to ensure that, through a  
20 standards-based process for all school districts, the  
21 physical condition and capacity, educational suitability and  
22 technology infrastructure of all public school facilities in  
23 New Mexico meet an adequate level statewide and the design,  
24 construction and maintenance of school sites and facilities  
25 encourage, promote and maximize safe, functional and durable

1 learning environments in order for the state to meet its  
2 educational responsibilities and for New Mexico's students to  
3 have the opportunity to achieve success."

4 Section 7. Section 22-24-4 NMSA 1978 (being Laws 1975,  
5 Chapter 235, Section 4, as amended) is amended to read:

6 "22-24-4. FUND CREATED--USE.--

7 A. There is created the "public school capital  
8 outlay fund". Balances remaining in the fund at the end of  
9 each fiscal year shall not revert.

10 B. Except as provided in Subsections G through K  
11 of this section, money in the fund may be used only for  
12 capital expenditures deemed by the council necessary for an  
13 adequate educational program.

14 C. The council may authorize the purchase by the  
15 public school facilities authority of portable classrooms to  
16 be loaned to school districts to meet a temporary  
17 requirement. Payment for these purchases shall be made from  
18 the fund. Title and custody to the portable classrooms shall  
19 rest in the public school facilities authority. The council  
20 shall authorize the lending of the portable classrooms to  
21 school districts upon request and upon finding that  
22 sufficient need exists. Application for use or return of  
23 state-owned portable classroom buildings shall be submitted  
24 by school districts to the council. Expenses of maintenance  
25 of the portable classrooms while in the custody of the public

1 school facilities authority shall be paid from the fund;  
2 expenses of maintenance and insurance of the portable  
3 classrooms while in the custody of a school district shall be  
4 the responsibility of the school district. The council may  
5 authorize the permanent disposition of the portable  
6 classrooms by the public school facilities authority with  
7 prior approval of the state board of finance.

8 D. Applications for assistance from the fund shall  
9 be made by school districts to the council in accordance with  
10 requirements of the council. The council shall require as a  
11 condition of application that a school district have a  
12 current five-year facilities plan, which shall include a  
13 current preventive maintenance plan to which the school  
14 adheres for each public school in the school district.

15 E. The council shall review all requests for  
16 assistance from the fund and shall allocate funds only for  
17 those capital outlay projects that meet the criteria of the  
18 Public School Capital Outlay Act.

19 F. Money in the fund shall be disbursed by warrant  
20 of the department of finance and administration on vouchers  
21 signed by the secretary of finance and administration  
22 following certification by the council that an application  
23 has been approved or an expenditure has been ordered by a  
24 court pursuant to Section 22-24-5.5 NMSA 1978. At the  
25 discretion of the council, money for a project shall be

1 distributed as follows:

2 (1) up to ten percent of the portion of the  
3 project cost funded with distributions from the fund or five  
4 percent of the total project cost, whichever is greater, may  
5 be paid to the school district before work commences with the  
6 balance of the grant award made on a cost-reimbursement  
7 basis; or

8 (2) the council may authorize payments  
9 directly to the contractor.

10 G. Balances in the fund may be annually  
11 appropriated for the core administrative functions of the  
12 public school facilities authority pursuant to the Public  
13 School Capital Outlay Act and, in addition, balances in the  
14 fund may be expended by the public school facilities  
15 authority, upon approval of the council, for project  
16 management expenses; provided that:

17 (1) the total annual expenditures from the  
18 fund pursuant to this subsection shall not exceed five  
19 percent of the average annual grant assistance authorized  
20 from the fund during the three previous fiscal years; and

21 (2) any unexpended or unencumbered balance  
22 remaining at the end of a fiscal year from the expenditures  
23 authorized in this subsection shall revert to the fund.

24 H. Up to one million two hundred fifty thousand  
25 dollars (\$1,250,000) of the balances of the fund may be

1 expended in fiscal years 2003 and 2004 by the council for the  
2 purpose of updating and refining the statewide assessment  
3 study required by Section 22-24-5 NMSA 1978 and for the  
4 training of state and local officials on the use of the  
5 database and other data-management-related issues identified  
6 by the council.

7 I. Of the appropriation made to the fund by  
8 Subsection D of Section 15 of Chapter 338 of Laws 2001 for  
9 the purpose of correcting outstanding deficiencies, one  
10 million one hundred thousand dollars (\$1,100,000) is  
11 appropriated to the council for expenditure in fiscal years  
12 2004 through 2007 for the core administrative functions of  
13 the deficiencies corrections program. Any unexpended or  
14 unencumbered balance remaining at the end of fiscal year 2007  
15 shall revert to the fund.

16 J. Up to seven hundred thousand dollars (\$700,000)  
17 of the balances of the fund may be expended by the council in  
18 fiscal year 2004 for the core administrative functions of the  
19 public school facilities authority.

20 K. Up to four million dollars (\$4,000,000) from  
21 the fund may be expended annually by the council in fiscal  
22 years 2005 through 2009 for grants to school districts for  
23 the purpose of making lease payments for classroom  
24 facilities, including facilities leased by charter schools.

25 The grants shall be made upon application by the school

1 districts and pursuant to rules adopted by the council and  
2 the following criteria:

3 (1) the amount of a grant to a school  
4 district shall not exceed:

5 (a) the actual annual lease payments  
6 owed for leasing classroom space for schools, including  
7 charter schools, in the district; or

8 (b) three hundred dollars (\$300)  
9 multiplied by the number of MEM using the leased classroom  
10 facilities; provided that, if the total grants awarded  
11 pursuant to this paragraph would exceed the total annual  
12 amount available, the rate specified in this subparagraph  
13 shall be reduced proportionately;

14 (2) a grant received for the lease payments  
15 of a charter school may be used by that charter school as a  
16 state match necessary to obtain federal grants pursuant to  
17 the federal No Child Left Behind Act of 2001;

18 (3) at the end of each fiscal year, any  
19 unexpended or unencumbered balance of the appropriation shall  
20 revert to the fund; and

21 (4) as used in this subsection, "MEM" means  
22 the total full-time-equivalent enrollment using leased  
23 classroom facilities in the final funded prior school year."

24 Section 8. Section 22-24-4.1 NMSA 1978 (being Laws  
25 2001, Chapter 338, Section 6, as amended) is amended to read:

1 "22-24-4.1. OUTSTANDING DEFICIENCIES--ASSESSMENT--  
2 CORRECTION.--

3 A. No later than September 1, 2001, the council  
4 shall define and develop guidelines, consistent with the  
5 codes adopted by the construction industries commission  
6 pursuant to the Construction Industries Licensing Act, for  
7 school districts to use to identify outstanding serious  
8 deficiencies in public school buildings and grounds,  
9 including buildings and grounds of charter schools, that may  
10 adversely affect the health or safety of students and school  
11 personnel.

12 B. A school district shall use these guidelines to  
13 complete a self-assessment of the outstanding health or  
14 safety deficiencies within the school district and provide  
15 cost projections to correct the outstanding deficiencies.

16 C. The council shall develop a methodology for  
17 prioritizing projects that will correct the deficiencies.

18 D. After a public hearing and to the extent that  
19 money is available in the fund for such purposes, the council  
20 shall approve allocations from the fund on the established  
21 priority basis and, working with the school district and  
22 pursuant to the Procurement Code, enter into construction  
23 contracts with contractors to correct the deficiencies.

24 E. In entering into construction contracts to  
25 correct deficiencies pursuant to this section, the council

1 shall include such terms and conditions as necessary to  
2 ensure that the state money is expended in the most prudent  
3 manner possible and consistent with the original purpose.

4 F. Any deficiency that may adversely affect the  
5 health or safety of students or school personnel may be  
6 corrected pursuant to this section, regardless of the local  
7 effort or percentage of indebtedness of the school district.

8 G. It is the intent of the legislature that all  
9 outstanding deficiencies in public schools and grounds that  
10 may adversely affect the health or safety of students and  
11 school personnel be identified and awards made pursuant to  
12 this section no later than June 30, 2005, and that funds be  
13 expended no later than June 30, 2007."

14 Section 9. Section 22-24-5 NMSA 1978 (being Laws 1975,  
15 Chapter 235, Section 5, as amended) is amended to read:

16 "22-24-5. PUBLIC SCHOOL CAPITAL OUTLAY PROJECTS--  
17 APPLICATION--GRANT ASSISTANCE.--

18 A. Applications for grant assistance, the approval  
19 of applications, the prioritization of projects and grant  
20 awards shall be conducted pursuant to the provisions of this  
21 section; provided, however, that the order of priority in the  
22 three years beginning July 1, 2004 shall first reflect those  
23 projects that were partially funded by the council in  
24 September 2003 but are not as yet completed, excluding  
25 expansion of those projects and contingent upon maintenance

1 of the required local support. In that transition period,  
2 such projects shall be funded regardless of any deviation  
3 from the statewide adequacy standards; provided, that the  
4 amount of the award received shall not exceed the amount  
5 necessary to meet the statewide adequacy standards, including  
6 projected enrollment growth.

7 B. Except as provided in Subsection A of this  
8 section and in Section 22-24-5.5 NMSA 1978, the following  
9 provisions govern grant assistance from the fund for a public  
10 school capital outlay project not wholly funded pursuant to  
11 Section 22-24-4.1 NMSA 1978:

12 (1) all school districts are eligible to  
13 apply for funding from the fund, regardless of percentage of  
14 indebtedness;

15 (2) priorities for funding shall be  
16 determined by using the statewide adequacy standards  
17 developed pursuant to Subsection C of this section; provided  
18 that:

19 (a) the council shall apply the  
20 standards to charter schools to the same extent that they are  
21 applied to other public schools; and

22 (b) in an emergency in which the health  
23 or safety of students or school personnel is at immediate  
24 risk or in which there is a threat of significant property  
25 damage, the council may award grant assistance for a project

1 using criteria other than the statewide adequacy standards;

2 (3) the council shall establish criteria to  
3 be used in public school capital outlay projects that receive  
4 grant assistance pursuant to the Public School Capital Outlay  
5 Act. In establishing the criteria, the council shall  
6 consider:

7 (a) the feasibility of using design,  
8 build and finance arrangements for public school capital  
9 outlay projects;

10 (b) the potential use of more durable  
11 construction materials that may reduce long-term operating  
12 costs; and

13 (c) any other financing or construction  
14 concept that may maximize the dollar effect of the state  
15 grant assistance;

16 (4) no more than ten percent of the combined  
17 total of grants in a funding cycle shall be used for  
18 retrofitting existing facilities for technology  
19 infrastructure;

20 (5) except as provided in Paragraph (6) or  
21 (8) of this subsection, the state share of a project approved  
22 and ranked by the council shall be funded within available  
23 resources in accordance with the following procedure:

24 (a) the final prior year net taxable  
25 value for a school district divided by the MEM for that

1 school district is calculated for each school district;

2 (b) the final prior year net taxable  
3 value for the whole state divided by the MEM for the state is  
4 calculated;

5 (c) excluding any school district for  
6 which the result calculated pursuant to Subparagraph (a) of  
7 this paragraph is more than twice the result calculated  
8 pursuant to Subparagraph (b) of this paragraph, the results  
9 calculated pursuant to Subparagraph (a) of this paragraph are  
10 listed from highest to lowest;

11 (d) the lowest value listed pursuant to  
12 Subparagraph (c) of this paragraph is subtracted from the  
13 highest value listed pursuant to that subparagraph;

14 (e) the value calculated pursuant to  
15 Subparagraph (a) of this paragraph for the subject school  
16 district is subtracted from the highest value listed in  
17 Subparagraph (c) of this paragraph;

18 (f) the result calculated pursuant to  
19 Subparagraph (e) of this paragraph is divided by the result  
20 calculated pursuant to Subparagraph (d) of this paragraph;

21 (g) the sum of the property tax mill  
22 levies for the prior tax year imposed by each school district  
23 on residential property pursuant to Chapter 22, Article 18  
24 NMSA 1978, the Public School Capital Improvements Act, the  
25 Public School Buildings Act, the Education Technology

1 Equipment Act and Paragraph (2) of Subsection B of Section  
2 7-37-7 NMSA 1978 is calculated for each school district;

3 (h) the lowest value calculated  
4 pursuant to Subparagraph (g) of this paragraph is subtracted  
5 from the highest value calculated pursuant to that  
6 subparagraph;

7 (i) the lowest value calculated  
8 pursuant to Subparagraph (g) of this paragraph is subtracted  
9 from the value calculated pursuant to that subparagraph for  
10 the subject school district;

11 (j) the value calculated pursuant to  
12 Subparagraph (i) of this paragraph is divided by the value  
13 calculated pursuant to Subparagraph (h) of this paragraph;

14 (k) if the value calculated for a  
15 subject school district pursuant to Subparagraph (j) of this  
16 paragraph is less than five-tenths, then, except as provided  
17 in Subparagraph (n) or (o) of this paragraph, the value  
18 calculated for that school district pursuant to Subparagraph  
19 (f) of this paragraph equals the portion of the approved  
20 project to be funded from the fund;

21 (l) if the value calculated for a  
22 subject school district pursuant to Subparagraph (j) of this  
23 paragraph is five-tenths or greater, then that value is  
24 multiplied by five-hundredths;

25 (m) if the value calculated for a

1 subject school district pursuant to Subparagraph (j) of this  
2 paragraph is five-tenths or greater, then the value  
3 calculated pursuant to Subparagraph (l) of this paragraph is  
4 added to the value calculated pursuant to Subparagraph (f) of  
5 this paragraph. Except as provided in Subparagraph (n) or  
6 (o) of this paragraph, the sum equals the portion of the  
7 approved project to be funded from the fund;

8 (n) in those instances in which the  
9 calculation pursuant to Subparagraph (k) or (m) of this  
10 paragraph yields a value less than one-tenth, one-tenth shall  
11 be used as the portion of the approved project to be funded  
12 from the fund;

13 (o) in those instances in which the  
14 calculation pursuant to Subparagraph (k) or (m) of this  
15 paragraph yields a value greater than one, one shall be used  
16 as the portion of the approved project to be funded from the  
17 fund;

18 (p) except as reduced pursuant to  
19 Paragraph (6) of this subsection, the amount to be  
20 distributed from the fund for an approved project shall equal  
21 the value for the subject school district derived from  
22 Subparagraph (k), (m), (n) or (o) of this paragraph  
23 multiplied by the total project cost; and

24 (q) as used in this paragraph: 1)

25 "MEM" means the total full-time equivalent enrollment of

1 students attending public school in a school district in the  
2 final funded prior school year; and 2) "total project cost"  
3 means the total amount necessary to complete the public  
4 school capital outlay project less any insurance  
5 reimbursement received by the school district for the  
6 project;

7 (6) the amount calculated pursuant to  
8 Subparagraph (p) of Paragraph (5) of this subsection shall be  
9 reduced by the following procedure:

10 (a) the total of all legislative  
11 appropriations made after January 1, 2003 directly to, and  
12 not rejected by, the subject school district for  
13 non-operating purposes, excluding educational technology and  
14 reauthorizations of appropriations previously made to the  
15 subject school district, is calculated; provided that an  
16 appropriation made in a fiscal year shall be deemed to be  
17 accepted by a school district unless, prior to July 15 of the  
18 fiscal year following the appropriation, the district  
19 notifies the department of finance and administration and the  
20 public education department that the district is rejecting  
21 the appropriation;

22 (b) the applicable amount for the  
23 subject school district calculated from Subparagraph (k),  
24 (m), (n) or (o) of Paragraph (5) of this subsection is  
25 subtracted from one;

1 (c) the value calculated pursuant to  
2 Subparagraph (a) of this paragraph for the subject school  
3 district is multiplied by the amount calculated pursuant to  
4 Subparagraph (b) of this paragraph for that school district;

5 (d) the total amount of reductions for  
6 the subject school district previously made pursuant to  
7 Subparagraph (e) of this paragraph for other approved public  
8 school capital outlay projects is subtracted from the amount  
9 calculated pursuant to Subparagraph (c) of this paragraph;  
10 and

11 (e) the amount calculated pursuant to  
12 Subparagraph (p) of Paragraph (5) of this subsection shall be  
13 reduced by the amount calculated pursuant to Subparagraph (d)  
14 of this paragraph;

15 (7) as used in Paragraphs (5) and (6) of  
16 this subsection, "subject school district" means the school  
17 district that has submitted the application for funding and  
18 in which the approved public school capital outlay project  
19 will be located;

20 (8) in those instances in which a school  
21 district has used all of its local resources, the council may  
22 fund up to the total amount of a project; and

23 (9) no application for grant assistance from  
24 the fund shall be approved unless the council determines  
25 that:

1 (a) the public school capital outlay  
2 project is needed and included in the school district's  
3 five-year facilities plan among its top priorities;

4 (b) the school district has used its  
5 capital resources in a prudent manner;

6 (c) the school district has provided  
7 insurance for buildings of the school district in accordance  
8 with the provisions of Section 13-5-3 NMSA 1978;

9 (d) the school district has submitted a  
10 five-year facilities plan that includes: 1) enrollment  
11 projections; 2) a current preventive maintenance plan that  
12 has been approved by the council pursuant to Section  
13 22-24-5.3 NMSA 1978 and that is followed by each public  
14 school in the district; and 3) projections for the facilities  
15 needed in order to maintain a full-day kindergarten program;

16 (e) the school district is willing and  
17 able to pay any portion of the total cost of the public  
18 school capital outlay project that, according to Paragraph  
19 (5), (6) or (8) of this subsection, is not funded with grant  
20 assistance from the fund;

21 (f) the application includes the  
22 capital needs of any charter schools located in the school  
23 district or the school district has shown that the facilities  
24 of the charter schools in the district meet the statewide  
25 adequacy standards; and

1 (g) the school district has agreed, in  
2 writing, to comply with any reporting requirements or  
3 conditions imposed by the council pursuant to Section  
4 22-24-5.1 NMSA 1978.

5 C. After consulting with the public school capital  
6 outlay task force and other experts, the council shall  
7 regularly review and update statewide adequacy standards  
8 applicable to all school districts. The standards shall  
9 establish the acceptable level for the physical condition and  
10 capacity of buildings, the educational suitability of  
11 facilities and the need for technological infrastructure.  
12 Except as otherwise provided in the Public School Capital  
13 Outlay Act, the amount of outstanding deviation from the  
14 standards shall be used by the council in evaluating and  
15 prioritizing public school capital outlay projects.

16 D. It is the intent of the legislature that grant  
17 assistance made pursuant to this section allow every school  
18 district to meet the standards developed pursuant to  
19 Subsection C of this section; provided, however, that nothing  
20 in the Public School Capital Outlay Act or the development of  
21 standards pursuant to that act prohibits a school district  
22 from using local funds to exceed the statewide adequacy  
23 standards.

24 E. Upon request, the council shall work with, and  
25 provide assistance and information to, the public school

1 capital outlay task force.

2 F. The council may establish committees or task  
3 forces, not necessarily consisting of council members, and  
4 may use the committees or task forces, as well as existing  
5 agencies or organizations, to conduct studies, conduct  
6 surveys, submit recommendations or otherwise contribute  
7 expertise from the public schools, programs, interest groups  
8 and segments of society most concerned with a particular  
9 aspect of the council's work.

10 G. Upon the recommendation of the public school  
11 facilities authority, the council shall develop building  
12 standards for public school facilities and shall promulgate  
13 other such rules as are necessary to carry out the provisions  
14 of the Public School Capital Outlay Act.

15 H. No later than December 15 of each year, the  
16 council shall prepare a report summarizing its activities  
17 during the previous fiscal year. The report shall describe  
18 in detail all projects funded, the progress of projects  
19 previously funded but not completed, the criteria used to  
20 prioritize and fund projects and all other council actions.  
21 The report shall be submitted to the public education  
22 commission, the governor, the legislative finance committee,  
23 the legislative education study committee and the  
24 legislature."

25 Section 10. A new section of the Public School Capital

1 Outlay Act, Section 22-24-5.5 NMSA 1978, is enacted to read:

2 "22-24-5.5. RECALCITRANT SCHOOL DISTRICTS--COURT ACTION  
3 TO ENFORCE CONSTITUTIONAL COMPLIANCE--IMPOSITION OF PROPERTY  
4 TAX.--

5 A. The council may bring an action against a  
6 school district pursuant to the provisions of this section  
7 if, based upon information submitted to the council by the  
8 public school facilities authority, the council determines  
9 that:

10 (1) the physical condition of a public  
11 school facility in the school district is so inadequate that  
12 the facility or the education received by students attending  
13 the facility is below the minimum required by the  
14 constitution of New Mexico;

15 (2) the school district is not taking the  
16 necessary steps to bring the facility up to the  
17 constitutionally required minimum; and

18 (3) either:

19 (a) the school district has not applied  
20 for the grant assistance necessary to bring the facility up  
21 to minimum constitutional standards; or

22 (b) the school district is unwilling to  
23 meet all of the requirements for the approval of an  
24 application for grant assistance pursuant to Paragraph (9) of  
25 Subsection B of Section 22-24-5 NMSA 1978.

1           B. An action brought pursuant to this section  
2 shall be brought by the council in the name of the state  
3 against the school district in the district court for Santa  
4 Fe county.

5           C. After a hearing and consideration of the  
6 evidence, if the court finds that the council's determination  
7 pursuant to Subsection A of this section was correct, the  
8 court shall:

9                   (1) order the council to expend sufficient  
10 resources necessary to bring the facility up to the minimum  
11 level required by the constitution of New Mexico;

12                   (2) order the school district to comply with  
13 Paragraph (9) of Subsection B of Section 22-24-5 NMSA 1978  
14 and to take all other actions necessary to facilitate the  
15 completion of the project ordered pursuant to Paragraph (1)  
16 of this subsection; and

17                   (3) enter a judgment against the school  
18 district for court costs and attorney fees and the necessary  
19 amount to satisfy the school district share, as determined by  
20 the formula prescribed by Subsection B of Section 22-24-5  
21 NMSA 1978, for the project ordered pursuant to Paragraph (1)  
22 of this subsection.

23           D. The amount of a judgment entered against a  
24 school district pursuant to Paragraph (3) of Subsection C of  
25 this section is a public debt of the school district. If the

1 court finds that the debt cannot be satisfied with available  
2 school district funds, other than funds needed for the  
3 operation of the public schools and other existing  
4 obligations, the court shall order the imposition of a  
5 property tax on all taxable property allocated to the school  
6 district at a rate sufficient to pay the judgment, with  
7 accrued interest, within a reasonable time as determined by  
8 the court. After paying court costs and attorney fees,  
9 amounts received pursuant to this subsection shall be  
10 deposited by the council into the fund."

11 Section 11. Section 22-24-9 NMSA 1978 (being Laws 2003,  
12 Chapter 147, Section 1) is amended to read:

13 "22-24-9. PUBLIC SCHOOL FACILITIES AUTHORITY--  
14 CREATION--POWERS AND DUTIES.--

15 A. The "public school facilities authority" is  
16 created under the council. The authority shall be headed by  
17 a director, selected by the council, who shall be versed in  
18 construction, architecture or project management. The  
19 director may hire no more than two deputies with the approval  
20 of the council, and, subject to budgetary constraints, shall  
21 employ or contract with such technical and administrative  
22 personnel as are necessary to carry out the provisions of  
23 this section. The director and deputies shall be exempt from  
24 the provisions of the Personnel Act; after July 1, 2005, all  
25 other employees of the authority shall be subject to the

1 provisions of the Personnel Act.

2 B. The authority shall:

3 (1) serve as staff to the council;

4 (2) as directed by the council, provide  
5 those assistance and oversight functions required of the  
6 council by Section 22-24-5.1 NMSA 1978;

7 (3) assist school districts with:

8 (a) the development and implementation  
9 of five-year facilities plans and preventive maintenance  
10 plans;

11 (b) procurement of architectural and  
12 engineering services;

13 (c) management and oversight of  
14 construction activities; and

15 (d) training programs;

16 (4) conduct ongoing reviews of five-year  
17 facilities plans, preventive maintenance plans and  
18 performance pursuant to those plans;

19 (5) as directed by the council, assist  
20 school districts in analyzing and assessing their space  
21 utilization options;

22 (6) ensure that public school capital outlay  
23 projects are in compliance with applicable building codes;

24 (7) conduct on-site inspections as necessary  
25 to ensure that the construction specifications are being met

1 and periodically inspect all of the documents related to  
2 projects;

3 (8) require the use of standardized  
4 construction documents and the use of a standardized process  
5 for change orders;

6 (9) have access to the premises of a project  
7 and any documentation relating to the project;

8 (10) after consulting with the department,  
9 recommend building standards for public school facilities to  
10 the council and ensure compliance with building standards  
11 adopted by the council;

12 (11) maintain a database of the condition of  
13 school facilities and maintenance schedules; and

14 (12) ensure that outstanding deficiencies  
15 are corrected pursuant to Section 22-24-4.1 NMSA 1978. In  
16 the performance of this duty, the authority:

17 (a) shall work with school districts to  
18 validate the assessment of the outstanding deficiencies and  
19 the projected costs to correct the deficiencies;

20 (b) shall work with school districts to  
21 provide direct oversight of the management and construction  
22 of the projects that will correct the outstanding  
23 deficiencies;

24 (c) shall oversee all aspects of the  
25 contracts entered into by the council to correct the

1 outstanding deficiencies;

2 (d) may conduct on-site inspections  
3 while the deficiencies correction work is being done to  
4 ensure that the construction specifications are being met and  
5 may periodically inspect all of the documents relating to the  
6 projects;

7 (e) may require the use of standardized  
8 construction documents and the use of a standardized process  
9 for change orders;

10 (f) may access the premises of a  
11 project and any documentation relating to the project; and

12 (g) shall maintain, track and account  
13 for deficiency correction projects separately from other  
14 capital outlay projects funded pursuant to the Public School  
15 Capital Outlay Act.

16 C. All actions taken by the authority shall be  
17 consistent with educational programs conducted pursuant to  
18 the Public School Code. In the event of any potential or  
19 perceived conflict between a proposed action of the authority  
20 and an educational program, the authority shall consult with  
21 the secretary of public education.

22 D. A school district, aggrieved by a decision or  
23 recommendation of the authority, may appeal the matter to the  
24 council by filing a notice of appeal with the council within  
25 thirty days of the authority's decision or recommendation.

1 Upon filing of the notice:

2 (1) the decision or recommendation of the  
3 authority shall be suspended until the matter is decided by  
4 the council;

5 (2) the council shall hear the matter at its  
6 next regularly scheduled hearing or at a special hearing  
7 called by the chair for that purpose;

8 (3) at the hearing, the school district, the  
9 authority and other interested parties may make informal  
10 presentations to the council; and

11 (4) the council shall finally decide the  
12 matter within ten days after the hearing."

13 Section 12. Section 22-25-2 NMSA 1978 (being Laws 1975  
14 (S.S.), Chapter 5, Section 2, as amended) is amended to read:

15 "22-25-2. DEFINITIONS.--As used in the Public School  
16 Capital Improvements Act:

17 A. "program unit" means the product of the program  
18 element multiplied by the applicable cost differential  
19 factor, as defined in Section 22-8-2 NMSA 1978; and

20 B. "capital improvements" means expenditures,  
21 including payments made with respect to lease-purchase  
22 arrangements as defined in the Education Technology Equipment  
23 Act but excluding any other debt service expenses, for:

24 (1) erecting, remodeling, making additions  
25 to, providing equipment for or furnishing public school

1 buildings;

2 (2) purchasing or improving public school  
3 grounds;

4 (3) maintenance of public school buildings  
5 or public school grounds, including expenditures for  
6 technical training and certification for maintenance and  
7 facilities management personnel, but excluding salary  
8 expenses of school district employees;

9 (4) purchasing activity vehicles for  
10 transporting students to extracurricular school activities;  
11 and

12 (5) purchasing computer software and  
13 hardware for student use in public school classrooms."

14 Section 13. Section 22-25-7 NMSA 1978 (being Laws 1975  
15 (S.S.), Chapter 5, Section 7, as amended) is amended to read:

16 "22-25-7. IMPOSITION OF TAX--LIMITATION ON  
17 EXPENDITURES.--If as a result of an election held in  
18 accordance with the Public School Capital Improvements Act a  
19 majority of the qualified electors voting on the question  
20 vote in favor of the imposition of the tax, the tax rate  
21 shall be certified, unless the local school board requests by  
22 resolution that a rate be discontinued, by the department of  
23 finance and administration at the rate specified in the  
24 resolution authorized under Section 22-25-3 NMSA 1978 or at  
25 any lower rate required by operation of the rate limitation

1 provisions of Section 7-37-7.1 NMSA 1978 upon the rate  
2 specified in the resolution and be imposed at the rate  
3 certified in accordance with the provisions of the Property  
4 Tax Code. The revenue produced by the tax and, except as  
5 provided in Subsection F of Section 22-25-9 NMSA 1978, any  
6 state distribution resulting to the district under the Public  
7 School Capital Improvements Act shall be expended only for  
8 the capital improvements specified in the authorizing  
9 resolution."

10 Section 14. Section 22-25-9 NMSA 1978 (being Laws 1975  
11 (S.S.), Chapter 5, Section 9, as amended) is amended to read:

12 "22-25-9. STATE DISTRIBUTION TO SCHOOL DISTRICT  
13 IMPOSING TAX UNDER CERTAIN CIRCUMSTANCES.--

14 A. Except as provided in Subsection C of this  
15 section, the secretary of public education shall distribute  
16 to any school district that has imposed a tax under the  
17 Public School Capital Improvements Act an amount from the  
18 public school capital improvements fund that is equal to the  
19 amount by which the revenue estimated to be received from the  
20 imposed tax, at the rate certified by the department of  
21 finance and administration in accordance with Section 22-25-7  
22 NMSA 1978, assuming a one hundred percent collection rate, is  
23 less than an amount calculated by multiplying the school  
24 district's first forty days' total program units by the  
25 amount specified in Subsection B of this section and further

1 multiplying the product obtained by the tax rate approved by  
2 the qualified electors in the most recent election on the  
3 question of imposing a tax under the Public School Capital  
4 Improvements Act. The distribution shall be made each year  
5 that the tax is imposed in accordance with Section 22-25-7  
6 NMSA 1978; provided that no state distribution from the  
7 public school capital improvements fund may be used for  
8 capital improvements to any administration building of a  
9 school district. In the event that sufficient funds are not  
10 available in the public school capital improvements fund to  
11 make the state distribution provided for in this section, the  
12 dollar per program unit figure shall be reduced as necessary.

13 B. In calculating the state distribution pursuant  
14 to Subsection A of this section, the following amounts shall  
15 be used:

16 (1) the amount calculated pursuant to  
17 Subsection D of this subsection per program unit; and

18 (2) for fiscal year 2006 and thereafter, an  
19 additional amount certified to the secretary of public  
20 education by the public school capital outlay council. No  
21 later than June 1, 2005 and each June 1 thereafter, the  
22 council shall determine the amount needed in the next fiscal  
23 year for public school capital outlay projects pursuant to  
24 the Public School Capital Outlay Act and the amount of  
25 revenue, from all sources, available for the projects. If,

1 in the sole discretion of the council, the amount available  
2 exceeds the amount needed, the council may certify an  
3 additional amount pursuant to this paragraph; provided that  
4 the sum of the amount calculated pursuant to this paragraph  
5 plus the amount in Paragraph (1) of this subsection shall not  
6 result in a total statewide distribution that, in the opinion  
7 of the council, exceeds one-half of the total revenue  
8 estimated to be received from taxes imposed pursuant to the  
9 Public School Capital Improvements Act.

10 C. For fiscal year 2004 and thereafter,  
11 notwithstanding the amount calculated to be distributed  
12 pursuant to Subsections A and B of this section, a school  
13 district, the voters of which have approved a tax pursuant to  
14 Section 22-25-3 NMSA 1978, shall not receive a distribution  
15 less than the amount calculated pursuant to Subsection E of  
16 this section, multiplied by the school district's first forty  
17 days' total program units and further multiplying the product  
18 obtained by the approved tax rate.

19 D. For purposes of calculating the distribution  
20 pursuant to Subsection B of this section, the amount used in  
21 Paragraph (1) of that subsection shall equal fifty dollars  
22 (\$50.00) through fiscal year 2005 and in each subsequent  
23 fiscal year shall equal the amount for the previous fiscal  
24 year adjusted by the percentage increase between the next  
25 preceding calendar year and the preceding calendar year of

1 the consumer price index for the United States, all items, as  
2 published by the United States department of labor.

3 E. For purposes of calculating the minimum  
4 distribution pursuant to Subsection C of this section, the  
5 amount used in that subsection shall equal five dollars  
6 (\$5.00) through fiscal year 2005 and in each subsequent  
7 fiscal year shall equal the amount for the previous fiscal  
8 year adjusted by the percentage increase between the next  
9 preceding calendar year and the preceding calendar year of  
10 the consumer price index for the United States, all items, as  
11 published by the United States department of labor.

12 F. In expending distributions made pursuant to  
13 this section, school districts shall give priority to  
14 maintenance projects.

15 G. In making distributions pursuant to this  
16 section, the secretary of public education shall include such  
17 reporting requirements and conditions as are required by rule  
18 of the public school capital outlay council. The council  
19 shall adopt such requirements and conditions as are necessary  
20 to ensure that the distributions are expended in the most  
21 prudent manner possible and are consistent with the original  
22 purpose as specified in the authorizing resolution. Copies  
23 of reports or other information received by the secretary in  
24 response to the requirements and conditions shall be  
25 forwarded to the council."

1           Section 15. TEMPORARY PROVISION--SHORT-TERM  
2 SUPPLEMENTAL SEVERANCE TAX BONDS AUTHORIZED FOR FISCAL YEAR  
3 2004.--

4           A. In addition to the bonds issued pursuant to  
5 Section 7-27-14 NMSA 1978 and notwithstanding the limitations  
6 of that section, in compliance with the Severance Tax Bonding  
7 Act, in fiscal year 2004 the state board of finance may issue  
8 and sell supplemental severance tax bonds with a term that  
9 does not extend beyond the fiscal year in which they are  
10 issued in an amount not exceeding fifty-seven million dollars  
11 (\$57,000,000) when the public school capital outlay council  
12 certifies by resolution the need for the issuance of the  
13 bonds. The proceeds from the sale of the bonds are  
14 appropriated to the public school capital outlay fund for the  
15 following purposes:

16                       (1) completing projects that have been  
17 partially funded by the public school capital outlay council  
18 in September 2003 pursuant to the Public School Capital  
19 Outlay Act; and

20                       (2) making awards of grant assistance for  
21 correcting deficiencies pursuant to the Public School Capital  
22 Outlay Act.

23           B. No supplemental severance tax bonds shall be  
24 issued pursuant to this section unless the balance in the  
25 severance tax bonding fund as of the date that the bonds are

1 issued is greater than the sum of:

2 (1) the debt service on the supplemental  
3 severance tax bonds to be issued pursuant to this section;

4 (2) the debt service scheduled to be paid  
5 during the remainder of the fiscal year on all outstanding  
6 severance tax bonds and supplemental severance tax bonds; and

7 (3) the amount necessary to meet all  
8 principal and interest payments on outstanding bonds payable  
9 from the severance tax bonding fund on the next two ensuing  
10 semiannual payment dates.

11 Section 16. TEMPORARY PROVISION--PUBLIC SCHOOL CAPITAL  
12 OUTLAY TASK FORCE--CREATION--STAFF.--

13 A. The "public school capital outlay task force"  
14 is created. The task force consists of twenty members as  
15 follows:

16 (1) the dean of the university of New Mexico  
17 school of law or the dean's designee;

18 (2) the secretary of finance and  
19 administration or the secretary's designee;

20 (3) the secretary of public education or the  
21 secretary's designee;

22 (4) the state investment officer or the  
23 state investment officer's designee;

24 (5) the chairmen of the house appropriations  
25 and finance committee, the senate finance committee, the

1 senate education committee and the house education committee  
2 or their designees;

3 (6) a minority party member of the house of  
4 representatives, appointed by the New Mexico legislative  
5 council;

6 (7) a minority party member of the senate,  
7 appointed by the New Mexico legislative council;

8 (8) two public members who have expertise in  
9 education and finance appointed by the speaker of the house  
10 of representatives;

11 (9) two public members who have expertise in  
12 education and finance appointed by the president pro tempore  
13 of the senate;

14 (10) three public members who have expertise  
15 in education and finance appointed by the governor; and

16 (11) three superintendents of school  
17 districts or their designees that receive grants from the  
18 federal government as assistance to areas affected by federal  
19 activity authorized in accordance with Title 20 of the United  
20 States Code, appointed by the New Mexico legislative council  
21 in consultation with the governor.

22 B. The chair of the public school capital outlay  
23 task force shall be elected by the task force. The task  
24 force shall meet at the call of the chair.

25 C. Members of the task force shall serve from the

1 time of their appointment through June 30, 2005. On July 1,  
2 2005, the task force is terminated.

3 D. The public members of the public school capital  
4 outlay task force shall receive per diem and mileage pursuant  
5 to the Per Diem and Mileage Act.

6 E. The legislative council service, with  
7 assistance from the public school facilities authority, the  
8 department of finance and administration, the public  
9 education department, the legislative education study  
10 committee and the legislative finance committee, shall  
11 provide staff for the public school capital outlay task  
12 force.

13 Section 17. TEMPORARY PROVISION--PUBLIC SCHOOL CAPITAL  
14 OUTLAY TASK FORCE--DUTIES.--The public school capital outlay  
15 task force shall:

16 A. study and evaluate the progress and  
17 effectiveness of programs administered pursuant to the Public  
18 School Capital Outlay Act and the Public School Capital  
19 Improvements Act;

20 B. review the condition index and the methodology  
21 used for ranking projects;

22 C. evaluate the existing permanent revenue streams  
23 as an adequate long-term funding source for public school  
24 capital outlay projects;

25 D. monitor and assist the public school capital

1 outlay council and the public school facilities authority as  
2 they perform functions pursuant to the Public School Capital  
3 Outlay Act, particularly as they implement the  
4 statewide-based process for making grant awards; and

5 E. before the beginning of the first session of  
6 the forty-seventh legislature, report the results of its  
7 analyses, findings and recommendations to the governor and  
8 the legislature.

9 Section 18. TEMPORARY PROVISION--NO REDUCTION FOR  
10 KINDERGARTEN PROJECTS.--Notwithstanding the provisions of  
11 Paragraph (6) of Subsection B of Section 22-24-5 NMSA 1978,  
12 no reduction calculated pursuant to that paragraph shall take  
13 into account any appropriation in the 2004 Capital Projects  
14 General Obligation Bond Act to a school district for full-day  
15 kindergarten projects.

16 Section 19. TEMPORARY PROVISION--REAUTHORIZATION.--In  
17 addition to its original purpose, the balance of the  
18 appropriation made from the general fund to the public school  
19 capital outlay fund pursuant to Subsection D of Section 15 of  
20 Chapter 338 of Laws 2001 may be used to carry out all of the  
21 provisions of the Public School Capital Outlay Act, and the  
22 period of time in which the appropriation may be expended is  
23 extended through fiscal year 2007. Any unexpended or  
24 unencumbered balance remaining at the end of fiscal year 2007  
25 shall not revert but shall be used for the purpose of

1 providing grant assistance pursuant to the Public School  
2 Capital Outlay Act.

3 Section 20. REPEAL.--Section 22-24-5.2 NMSA 1978 (being  
4 Laws 2001, Chapter 328, Section 3) is repealed.

5 Section 21. EFFECTIVE DATE.--The effective date of the  
6 provisions of Section 2 of this act is July 1, 2004. \_\_\_\_\_

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